



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 31417247

Date: JUN. 27, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Multinational Managers or Executives)

The Petitioner, a jiu-jitsu coach, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not satisfied the initial evidentiary criteria, of which he must meet at least three. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a Brazilian jiu-jitsu athlete and coach. He intends to serve as a jiu-jitsu coach in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner only met the plain language requirements of two evidentiary criteria relating to lesser awards at 8 C.F.R. § 204.5(h)(3)(i) and judging the work of others at 8 C.F.R. § 204.5(h)(3)(iv). The record supports this determination.

On appeal, the Petitioner maintains that he also meets the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(v) related to original contributions of major significance in the field and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii) and contends that the Director did not sufficiently analyze his assertions and the submitted evidence with respect to these criteria. The Petitioner does not address or contest on appeal the Director’s finding that he does not meet the criteria at 8 C.F.R. § 204.5(h)(3) pertaining to membership (ii), published material (iii), display (vii), or high salary (ix). Accordingly, we deem these grounds to be waived. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

Evidence of the individual’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policymanual>. For example, the

Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner asserted eligibility under this criterion based on his role in developing the [REDACTED] Brazilian Jiu-Jitsu (BJJ) Tournament as well as his development of Brazilian jiu-jitsu techniques. He initially submitted several testimonial letters and newspaper articles in support of his eligibility under this criterion. The Director found this documentation insufficient and requested additional evidence demonstrating that people throughout the field regard his original contributions as important, or that his work has been widely cited, has provoked widespread commentary, or is being implemented by others. The Director provided a list of the types of documentary evidence the Petitioner could submit in addition to letters, including patents, contracts, and licensed technologies.

In response, the Petitioner asserted that the Director erroneously discounted the evidence initially submitted and asserted that the statements in the previously submitted letters demonstrate that he has made original contributions of major significance to the field. The Petitioner asserted that his original developments in the field of jiu-jitsu provoked widespread commentary, are considered important by peers, and had specific effects on his overall field.

In the denial decision, the Director acknowledged the Petitioner's submission of multiple letters but concluded that none of the letters articulated how his contributions were original and were of major significance to the field. Although the Director noted that the letters were complimentary, they determined that such evidence was insufficient to demonstrate that the Petitioner's coaching strategies and techniques had been implemented by others in the field. On appeal, the Petitioner again asserts that the Director erred by not sufficiently analyzing and affording evidentiary weight to the letters.

Preliminarily, we note that this criterion requires the Petitioner to establish that he has made original contributions of major significance in the field. Thus, the burden is on the Petitioner to identify his original contributions and explain why they are of major significance. Although the Petitioner asserts throughout the record that he is an expert in the field of jiu-jitsu and that the record demonstrates that he has made original contributions of major significance to the field, he does not specifically identify those contributions or explain how his work has had such a deep or widespread impact as to be considered major in the field of jiu-jitsu.

The Petitioner contends that role in the development of the [REDACTED] BJJ Tournament demonstrates his original contributions of major significance in the field. While he demonstrated that he designed, coordinated, and directed the tournament, the Petitioner has not shown how such actions are tantamount to original contributions of major significance in the field. He did not, for instance, provide a specific example explaining the tournament's impact or unusual importance to the sport of jiu-jitsu.

In addition, the Petitioner contends that the Director failed to adequately consider his articles and letters of support, claiming on appeal that the Director unfairly discounted several documents due to deficiencies and omissions in dates and translations. While the Director correctly noted certain evidentiary deficiencies that undermined the credibility of those documents, they nevertheless evaluated the submitted documents and explained why they were insufficient to demonstrate original contributions of major significance.

The letters discuss the Petitioner's achievements as a jiu-jitsu athlete and coach, his strategies and techniques, and his role in developing the BJJ Tournament. The letters and articles, however, do not provide specific information explaining how his techniques have influenced the jiu-jitsu field in a significant manner beyond its impact on athletes he coaches. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). Moreover, while the Petitioner has demonstrated his role in establishing the BJJ tournament, the letters and articles do not demonstrate that this tournament has had a widespread impact on the sport of jiu-jitsu.

While all of the letters submitted collectively speak to the Petitioner's innovations and techniques in the sport of jiu-jitsu, they do not provide examples of the depth or breadth of their impact. Neither the letters nor other evidence within the record shows how the Petitioner's work has been widely implemented or has otherwise impacted the sport of jiu-jitsu. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1). On the other hand, letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that forms the basis for meeting this criterion. *See id.* Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

While the Petitioner has participated in extensive jiu-jitsu training and coaching, and helped develop an annual jiu-jitsu tournament, he has not shown how these activities equate to "original" athletic contributions of major significance in the field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the contributions must be not only original but of major significance. While the evidence suggests that he is knowledgeable and skilled in jiu-jitsu, it does not establish that he has made original athletic contributions of major significance in the field. Although the Petitioner has earned the admiration of his references and athletes he coached, the evidence submitted does not demonstrate that his impact on the sport is commensurate with an original athletic contribution of major significance in the field.

The burden is on the Petitioner to not only identify his original contributions but to also demonstrate why they are considered to be of major significance in the field. Here, for the reasons discussed, the Petitioner has not met this burden.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Director determined that the Petitioner did not demonstrate that he has performed in a leading or critical role for an organization with a distinguished reputation. On appeal, the Petitioner asserts that the Director incorrectly determined that he did not satisfy this criterion.

In general, a leading role is evidenced from the role itself, and a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment. The Petitioner asserts that he has performed in a leading role for [redacted] as a head coach and [redacted] as a BJJ competitor and coach. Although he demonstrated that he served as a coach for both [redacted] and [redacted] the Petitioner has not shown how his role as a coach is reflective of a leading role

for them. The record does not include evidence, for example, differentiating his role as a coach from the roles of the other coaches or employees of these organizations. Similarly, the Petitioner provides no evidence distinguishing his role as a BJJ competitor for [] from other competitors or fighters. Furthermore, he has not indicated where his position fits in the overall hierarchy of either organization. Without evidence establishing that he performed in a leading role, the Petitioner's roles as a coach and competitor in and of themselves is insufficient to show that it is leading consistent with the plain language of this regulatory criterion.

Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. Although the Petitioner asserts on appeal that "a title with matching duties is sufficient to meet the requirements," it is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). Here the statements provided by representatives of [] and [] do not provide detailed and probative information addressing how the Petitioner's role as a coach and competitor impacted their standings in the field or contributed in a way that is of significant importance. For instance, the evidence does not show that either organization garnered attention or increased attendance based on the Petitioner's coaching or competition appearances. Without information and evidence documenting the impact and importance of any work the Petitioner has conducted for [] and [] the record does not demonstrate the critical nature of his role for these organizations.

Further, the record contains insufficient evidence demonstrating that [] and [] enjoy a distinguished reputation. While the evidence shows that these organizations are successful businesses that serve athletes, it is insufficient to demonstrate that the organizations have a distinguished reputation. For example, while the Petitioner submitted newspaper articles discussing the organizations and their fighters, the record does not establish that the organizations have received media coverage at a level that shows their eminence, distinction, or excellence, which might confirm their distinguished reputation. *See id.* (providing Webster's online dictionary's definition of "distinguished"). For these reasons, the Petitioner has not met his burden of demonstrating his eligibility under this criterion.

B. Comparable Evidence

The Petitioner asserts on appeal that the Director erred by not analyzing letters from athletes he coached who assert that they won national and international awards as a result of his coaching.

The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to their occupation, which in this case involves coaching jiu-jitsu athletes. It is the Petitioner's burden to explain why the regulatory criteria are not readily applicable to the occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 204.5(h)(3)(i)-(x). *See id.*

While the Petitioner suggests that due to the nature of his work, the submitted letters qualify as comparable evidence, he does not identify which criterion the evidence is intended to satisfy, nor does he discuss why any of the criteria are inapplicable to his occupation. A general unsupported assertion

that the evidentiary criteria do not readily apply to the petitioner's occupation is not probative. *See id.* The regulatory language precludes the consideration of comparable evidence in this case, however, as there is no indication that eligibility for visa preference in the occupation of a jiu-jitsu coach cannot be established by at least three of the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). In fact, as indicated in this decision, the Petitioner submitted evidence that specifically addressed eight of the ten criteria at 8 C.F.R. § 204.5(h)(3), and the record reflects that he has satisfied two of those criteria. Where a petitioner is unable to meet or submit sufficient documentary evidence of at least three of these criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence. As such, the Petitioner has not demonstrated that it may rely on comparable evidence.

III. CONCLUSION

Because the Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3), we need not provide the type of final merits determination described in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, determining that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has submitted documentation of his achievements but has not demonstrated that these achievements have translated into a level of recognition that constitutes sustained national or international acclaim or demonstrates a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Furthermore, the record does not otherwise demonstrate that the Petitioner is one of the small percentage of individuals who have risen to the very top of the field of endeavor. Section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.